

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Sprint Communications Company)	IC Nos. 03-S83362
)	03-S85191
Complaints Regarding)	
Unauthorized Change of)	
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: October 18, 2006

Released: October 19, 2006

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we grant a Petition for Reconsideration filed by Sprint Communications Co., L.P.¹ (Sprint) asking us to reverse a finding that Sprint changed Complainants' telecommunications service providers in violation of the Commission's rules by failing to obtain proper authorization and verification.² On reconsideration, we find that Sprint's actions did not violate the Commission's carrier change rules.³ We therefore grant Sprint's *Petition* and deny the complaints.

I. BACKGROUND

2. In December 1998, the Commission adopted rules prohibiting the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ The rules were designed to take the profit out of slamming.⁵ The Commission applied the rules to all wireline carriers,⁶ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁷

3. The rules require that a submitting carrier receive individual subscriber consent before a

¹ See Petition for Reconsideration of Sprint Communications Co., L.P. (filed March 4, 2004) (*Petition*) seeking reconsideration of *Sprint Communications Company*, 19 FCC Rcd 3502 (2004) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau (CGB).

² See *Division Order*, 19 FCC Rcd 3502 (2004).

³ See 47 C.F.R. §§ 64.1100 – 64.1190.

⁴ See *id.*; see also 47 U.S.C. § 258(a).

⁵ See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

⁶ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *Section 258 Order* at 1560-61, para. 85.

⁷ See *Section 258 Order*, 14 FCC Rcd at 1549, para. 66.

carrier change may occur.⁸ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁹

4. The Commission also adopted liability rules for carriers that engage in slamming.¹⁰ If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.¹¹ Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier must refund or credit the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.¹²

5. The Commission received two complaints alleging that Complainants' telecommunications service providers had been changed from their authorized carriers to Sprint without Complainants' authorization.¹³ Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹⁴ the Division notified Sprint of the complaints.¹⁵ In its responses, Sprint stated that authorizations were received and confirmed when letters of agency (LOAs) were signed and processed via its website.¹⁶ The Division determined that Sprint's LOAs forced the consumers to de-select any service they did not want to switch in violation of the Commission's rules.¹⁷ The Division found, therefore, that Sprint had not provided clear and convincing evidence of valid change authorizations, and was thus in violation of Section 64.1130(g) of the Commission's carrier change rules.¹⁸ Sprint seeks reconsideration of the *Division Order*.

⁸ See 47 C.F.R. § 64.1120. See also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures).

⁹ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

¹⁰ See 47 C.F.R. §§ 64.1140, 64.1160-70.

¹¹ See 47 C.F.R. §§ 64.1140, 64.1160 (any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change).

¹² See 47 C.F.R. §§ 64.1140, 64.1170.

¹³ Informal Complaint No. 03-S83362, filed March 27, 2003; Informal Complaint No. 03-S85191, filed September 26, 2003.

¹⁴ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁵ See Notice of Informal Complaint No. 03-S83362 to Sprint Communications Company from the Acting Deputy Chief, Division, CGB, dated April 18, 2003; Notice of Informal Complaint No. 03-S85191 to Sprint Communications Company from the Acting Deputy Chief, Division, CGB, dated October 31, 2003.

¹⁶ See Sprint Communications Company's Response to Informal Complaint No. 03-S83362, received June 13, 2003; Sprint Communications Company's Response to Informal Complaint No. 03-S85191, received January 9, 2004.

¹⁷ See 47 C.F.R. § 64.1130(g) (stating that letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications carrier).

¹⁸ See 47 C.F.R. § 64.1150(d).

II. DISCUSSION

6. Based on the record before us, we reverse the *Division Order* and grant the *Petition*. In the *Petition*, Sprint states that the Complainants had to affirmatively choose the services requested and that those choices were then automatically entered into Complainants' LOAs.¹⁹ Upon further review of Sprint's LOAs, we agree that they do not suggest or require that the subscribers take some action to retain their current carrier.²⁰ On reconsideration, we find that Sprint's LOAs are valid, and that its actions did not violate Section 64.1130(g) of the Commission's rules. Accordingly, we grant the *Petition*.

III. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106, 1.719, the *Petition for Reconsideration* filed by Sprint Communications Company, on March 4, 2004, IS GRANTED and the complaints filed against Sprint Communications Company on March 27, 2003, and September 26, 2003, ARE DENIED.

8. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Monica S. Desai, Chief
Consumer & Governmental Affairs Bureau

¹⁹ See *Petition* at 2.

²⁰ See 47 C.F.R. § 64.1130(g).